

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAURICE DALTON,

Plaintiff,

V.

SARGEANT PAUL ESTES, *et al.*,

Defendants.

Case No. C05-5820RJB

ORDER

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff has asked for appointment of counsel in the complaint and in his response to the court's order to show cause. (Dkt. # 5 and 8).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d

1 at 1331.

2 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Moreover, it
3 appears that this case does not involve exceptional circumstances which warrant appointment of
4 counsel. Accordingly, Plaintiff's Motion to Appoint Counsel (Dkt. # 5 and 8) is **DENIED**.

5 The Clerk is directed to send a copy of this Order to plaintiff.

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7 DATED this 22nd day of March, 2006.

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/S/ J. Kelley Arnold

J. Kelley Arnold

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United States Magistrate Judge

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ORDER